

# Senate File 88 - Introduced

SENATE FILE 88

BY KIBBIE

## A BILL FOR

1 An Act relating to tax revenues by increasing sales and use  
2 tax rates, by diverting a certain amount from the revenues  
3 generated from the increased rates to the natural resources  
4 and outdoor recreation trust fund and by using the balance  
5 of the revenues to provide a commercial property tax credit  
6 and including applicability provisions.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

SALES AND USE TAXES

Section 1. Section 423.2, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

There is imposed a tax of ~~six~~ seven percent upon the sales price of all sales of tangible personal property, consisting of goods, wares, or merchandise, sold at retail in the state to consumers or users except as otherwise provided in this subchapter.

Sec. 2. Section 423.2, subsections 2 and 3, Code 2011, are amended to read as follows:

2. A tax of ~~six~~ seven percent is imposed upon the sales price of the sale or furnishing of gas, electricity, water, heat, pay television service, and communication service, including the sales price from such sales by any municipal corporation or joint water utility furnishing gas, electricity, water, heat, pay television service, and communication service to the public in its proprietary capacity, except as otherwise provided in this subchapter, when sold at retail in the state to consumers or users.

3. A tax of ~~six~~ seven percent is imposed upon the sales price of all sales of tickets or admissions to places of amusement, fairs, and athletic events except those of elementary and secondary educational institutions. A tax of ~~six~~ seven percent is imposed on the sales price of an entry fee or like charge imposed solely for the privilege of participating in an activity at a place of amusement, fair, or athletic event unless the sales price of tickets or admissions charges for observing the same activity are taxable under this subchapter. A tax of ~~six~~ seven percent is imposed upon that part of private club membership fees or charges paid for the privilege of participating in any athletic sports provided club members.

Sec. 3. Section 423.2, subsection 4, paragraph a, Code 2011, is amended to read as follows:

1     a. A tax of ~~six~~ seven percent is imposed upon the sales  
2 price derived from the operation of all forms of amusement  
3 devices and games of skill, games of chance, raffles, and bingo  
4 games as defined in chapter 99B, and card game tournaments  
5 conducted under section 99B.7B, that are operated or conducted  
6 within the state, the tax to be collected from the operator in  
7 the same manner as for the collection of taxes upon the sales  
8 price of tickets or admission as provided in this section.  
9 Nothing in this subsection shall legalize any games of skill  
10 or chance or slot-operated devices which are now prohibited by  
11 law.

12     Sec. 4. Section 423.2, subsection 5, Code 2011, is amended  
13 to read as follows:

14     5. There is imposed a tax of ~~six~~ seven percent upon the  
15 sales price from the furnishing of services as defined in  
16 section 423.1.

17     Sec. 5. Section 423.2, subsection 7, paragraph a,  
18 unnumbered paragraph 1, Code 2011, is amended to read as  
19 follows:

20     A tax of ~~six~~ seven percent is imposed upon the sales  
21 price from the sales, furnishing, or service of solid waste  
22 collection and disposal service.

23     Sec. 6. Section 423.2, subsection 8, paragraph a, Code 2011,  
24 is amended to read as follows:

25     a. A tax of ~~six~~ seven percent is imposed on the sales  
26 price from sales of bundled transactions. For the purposes of  
27 this subsection, a "*bundled transaction*" is the retail sale of  
28 two or more distinct and identifiable products, except real  
29 property and services to real property, which are sold for one  
30 nonitemized price. A "*bundled transaction*" does not include  
31 the sale of any products in which the sales price varies, or  
32 is negotiable, based on the selection by the purchaser of the  
33 products included in the transaction.

34     Sec. 7. Section 423.2, subsection 9, Code 2011, is amended  
35 to read as follows:

1     9. A tax of ~~six~~ seven percent is imposed upon the sales  
 2 price from any mobile telecommunications service which this  
 3 state is allowed to tax by the provisions of the federal Mobile  
 4 Telecommunications Sourcing Act, Pub. L. No. 106-252, 4 U.S.C.  
 5 § 116 et seq. For purposes of this subsection, taxes on mobile  
 6 telecommunications service, as defined under the federal Mobile  
 7 Telecommunications Sourcing Act that are deemed to be provided  
 8 by the customer's home service provider, shall be paid to  
 9 the taxing jurisdiction whose territorial limits encompass  
 10 the customer's place of primary use, regardless of where the  
 11 mobile telecommunications service originates, terminates,  
 12 or passes through and shall in all other respects be taxed  
 13 in conformity with the federal Mobile Telecommunications  
 14 Sourcing Act. All other provisions of the federal Mobile  
 15 Telecommunications Sourcing Act are adopted by the state of  
 16 Iowa and incorporated into this subsection by reference. With  
 17 respect to mobile telecommunications service under the federal  
 18 Mobile Telecommunications Sourcing Act, the director shall, if  
 19 requested, enter into agreements consistent with the provisions  
 20 of the federal Act.

21     Sec. 8. Section 423.2, subsection 11, paragraph b, Code  
 22 2011, is amended to read as follows:

23     **b.** Subsequent to the deposit into the general fund of the  
 24 state ~~and after the transfer of such~~ pursuant to paragraph "a",  
 25 the department shall do the following in the order prescribed:

26         (1) Transfer the revenues collected under chapter 423B, the  
 27 department shall transfer one-sixth of such.

28         (2) Transfer one-seventh of the remaining revenues to the  
 29 secure an advanced vision for education fund created in section  
 30 423F.2. This ~~paragraph~~ subparagraph is repealed December 31,  
 31 2029.

32         (3) Transfer one-seventh of the remaining revenues in the  
 33 following manner:

34             (a) To the natural resources and outdoor recreation  
 35 fund created pursuant to Article VII, sec. 10, of the Iowa

1 Constitution, an amount equal to the amount generated by a  
2 sales tax rate equal to three-eighths of one percent.

3 (b) To the commercial property tax relief fund created  
4 pursuant to section 426C.2, the remaining revenues after  
5 transfer of the revenues pursuant to subparagraph division (a).

6 (c) The amount transferred under this subparagraph (3)  
7 shall be reduced to one-sixth of such remaining revenues on  
8 January 1, 2030.

9 Sec. 9. Section 423.2, subsection 13, Code 2011, is amended  
10 to read as follows:

11 13. The sales tax rate of ~~six~~ seven percent is reduced to  
12 ~~five~~ six percent on January 1, 2030.

13 Sec. 10. Section 423.5, unnumbered paragraph 1, Code 2011,  
14 is amended to read as follows:

15 Except as provided in subsection 3, an excise tax at the  
16 rate of ~~six~~ seven percent of the purchase price or installed  
17 purchase price is imposed on the following:

18 Sec. 11. Section 423.5, subsection 9, Code 2011, is amended  
19 to read as follows:

20 9. The use tax rate of ~~six~~ seven percent is reduced to ~~five~~  
21 six percent on January 1, 2030.

22 Sec. 12. Section 423.43, subsection 1, paragraph b, Code  
23 2011, is amended to read as follows:

24 b. Subsequent to the deposit into the general fund of the  
25 state and after the transfer of such pursuant to paragraph "a",  
26 the department shall do the following in the order prescribed:

27 (1) Transfer the revenues collected under chapter 423B, the  
28 department shall transfer one-sixth of such.

29 (2) Transfer one-seventh of the remaining revenues to the  
30 secure an advanced vision for education fund created in section  
31 423F.2. This paragraph subparagraph is repealed December 31,  
32 2029.

33 (3) Transfer one-seventh of the remaining revenues to the  
34 commercial property tax relief fund created pursuant to section  
35 426C.2. The amount transferred under this subparagraph (3)

1 shall be reduced to one-sixth of such remaining revenues on  
2 January 1, 2030.

3 DIVISION II

4 COMMERCIAL PROPERTY TAX RELIEF

5 Sec. 13. NEW SECTION. 426C.1 Definitions.

6 For purposes of this chapter, unless the context otherwise  
7 requires:

8 1. "*Department*" means the department of revenue.

9 2. "*Eligible taxpayer*" means a taxpayer meeting the  
10 requirements of section 426C.3.

11 3. "*Fund*" means the commercial property tax relief fund  
12 created in section 426C.2.

13 Sec. 14. NEW SECTION. 426C.2 Commercial property tax relief  
14 fund.

15 1. A commercial property tax relief fund is created in  
16 the state treasury. The fund shall consist of the moneys  
17 transferred pursuant to section 423.2, subsection 11, paragraph  
18 "b", subparagraph (3), subparagraph division (b) and section  
19 423.43, subsection 1, paragraph "b", subparagraph (3).

20 2. Moneys in the fund are appropriated to the department for  
21 purposes of providing a commercial property tax credit pursuant  
22 to this chapter.

23 3. Notwithstanding section 12C.7, subsection 2, interest or  
24 earnings on moneys in the fund shall be credited to the fund.  
25 Notwithstanding section 8.33, moneys remaining in the fund at  
26 the end of a fiscal year shall not revert to the general fund  
27 of the state.

28 Sec. 15. NEW SECTION. 426C.3 Eligibility — annual claims.

29 1. A taxpayer who is liable for the payment of property tax  
30 on property assessed as commercial property pursuant to section  
31 441.21 shall be eligible for a credit toward property taxes due  
32 in an amount not to exceed the taxpayer's annual property tax  
33 liability.

34 2. The taxpayer shall annually file a claim for the credit.  
35 The claim shall be filed not later than March 1 immediately

1 preceding the fiscal year during which the property taxes are  
2 due.

3     Sec. 16. NEW SECTION.   **426C.4   Computation of taxes —**  
4 **certification to the department.**

5     On or before April 1 of each year, the county auditor shall  
6 compute the total amount of property taxes to be levied on, or  
7 estimated to be levied on, all commercial property eligible  
8 for a credit pursuant to this chapter, and which are due and  
9 payable in the ensuing fiscal year, and on or before April  
10 1 the county auditor shall certify the total amount to the  
11 department of revenue.

12     Sec. 17. NEW SECTION.   **426C.5   Apportionment of fund moneys**  
13 **— issuance of warrants.**

14     1. The moneys in the fund shall be apportioned each year to  
15 provide a property tax credit to commercial property taxpayers  
16 as follows:

17     a. If the moneys in the fund equal or exceed the combined  
18 property tax liability of all eligible taxpayers, each eligible  
19 taxpayer shall receive a credit in an amount equal to the  
20 taxpayer's property tax liability.

21     b. If the moneys in the fund are insufficient to cover the  
22 combined property tax liability of the eligible businesses, the  
23 moneys in the fund shall be apportioned in a pro rata amount to  
24 each eligible taxpayer. The department shall notify the county  
25 auditors of the pro rata percentage on or before June 15 of  
26 each year.

27     2. Upon receipt of the pro rata percentage from the director  
28 of revenue, the county auditor shall determine the amount to be  
29 credited to each eligible taxpayer and shall enter the amount  
30 upon the tax lists as a credit against the tax levied on each  
31 eligible business on which there has been made an allowance of  
32 credit before delivering the tax lists to the county treasurer.

33     3. After receiving the certified amounts from the county  
34 auditors pursuant to section 426C.4, the director of revenue  
35 shall authorize the department of administrative services to

1 issue warrants on the fund payable to the county treasurers  
2 in the amount certified by the county auditor of each county  
3 or the pro rata amount, as applicable. The department of  
4 administrative services shall mail the warrants to the county  
5 auditors on July 15 of each year.

6 4. The county treasurer, pursuant to section 445.5,  
7 subsection 1, shall show on each tax statement the amount of  
8 tax credit received by the eligible taxpayer.

9 Sec. 18. NEW SECTION. 426C.6 Rules.

10 The director of revenue shall prescribe forms and adopt  
11 rules as necessary to carry out the purposes of this chapter.

12 Sec. 19. APPLICABILITY DATE. This division of this Act  
13 applies to property taxes due and payable in fiscal years  
14 beginning on or after July 1, 2012.

15 EXPLANATION

16 This bill increases the sales and use taxes and uses the  
17 increased revenues to fund the natural resources and outdoor  
18 recreation trust fund and to provide a commercial property tax  
19 credit.

20 Currently, the sales and use taxes are imposed at the rate  
21 of 6 percent. Division I of the bill amends the several  
22 provisions imposing these taxes by increasing the rate to 7  
23 percent.

24 In November 2010, Iowa voters ratified an amendment to the  
25 Iowa Constitution. The amendment creates a natural resources  
26 and outdoor recreation trust fund in the state treasury for  
27 purposes of funding certain environmental and natural resource  
28 programs and diverts an amount equal to a sales tax rate  
29 of three-eighths of 1 percent into the fund. Moneys are  
30 not credited to the fund until the state sales tax rate is  
31 increased. The amendment also directs the general assembly to  
32 provide for the implementation of the fund.

33 Since division I increases the state sales tax rate, the  
34 division provides for the required transfer of moneys into  
35 the fund. However, the division increases the sales tax rate



1 by more than the amount required to be transferred, so the  
2 division also provides for the transfer of the balance of the  
3 revenues plus the moneys from the increased use tax into a  
4 commercial property tax relief fund.

5 Division II of the bill creates the commercial property tax  
6 relief fund and provides a tax credit for commercial property  
7 taxpayers.

8 The property tax relief fund is created in the state treasury  
9 consisting of the moneys from the increased sales and use taxes  
10 not transferred to the natural resources and outdoor recreation  
11 trust fund. Moneys in the fund are appropriated to the  
12 department of revenue for purposes of providing a commercial  
13 property tax credit. Interest and earnings on moneys in the  
14 fund are credited to the fund, and moneys in the fund do not  
15 revert to the general fund of the state.

16 The division provides that all commercial property taxpayers  
17 are eligible for a tax credit in an amount not to exceed their  
18 annual property tax liability and requires each taxpayer  
19 to file a claim for credit annually by March 1 immediately  
20 preceding the fiscal year during which the property taxes are  
21 due.

22 The division provides that on or before April 1 of each  
23 year, the county auditors must provide to the department of  
24 revenue a report of the total amount of taxes levied or to be  
25 levied on the taxpayers eligible for a credit. The department  
26 determines whether there are sufficient moneys in the fund to  
27 cover the combined tax liability of all the eligible taxpayers  
28 and apportions the moneys accordingly. If the moneys in the  
29 fund are sufficient, each eligible business receives an amount  
30 equal to its tax liability. If the moneys in the fund are not  
31 sufficient, each eligible taxpayer receives a pro rata share of  
32 the moneys in the fund.

33 The division directs the director of revenue to authorize  
34 the department of administrative services to issue warrants  
35 on the fund payable to the county treasurers in the amount

1 certified as the amount of credits to which businesses in that  
2 county are entitled. The county auditor determines the amount  
3 to be credited to each eligible taxpayer. The county treasurer  
4 must show on the tax statement the amount of tax credit for the  
5 eligible taxpayer.

6 Division II of the bill applies to property taxes due and  
7 payable in fiscal years beginning on or after July 1, 2012.